

16 AUG 2005



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THE FIRM OF KARL F. ROSS, P.C.
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In re Application of:
LUVEN, Arno, et al.
U.S. Application No.: 10/534,994
PCT No.: PCT/DE03/03741
International Filing Date: 12 November 2003
Priority Date: 16 November 2002
Attorney's Docket No.: 23247
For: METHOD AND DEVICE FOR COOLING
BLOWING LANCES

DECISION

This decision is issued in response to the "Communication" filed by applicants on 16 May 2005 with respect to the duplicate national stage application materials and fees filed for PCT/DE03/03741, treated herein as a petition under 37 CFR 1.181. No petition fee is required

BACKGROUND

On 12 November 2003, applicants filed international application PCT/DE03/03741, which claimed a priority date of 16 November 2002 and which designated the United States. On 03 June 2004, a copy of the international application was communicated to the USPTO by the International Bureau (IB). Payment of the basic national fee in the United States was due within thirty months of the priority date, i.e. 16 May 2005.

On 13 May 2005, applicant filed a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" (Form PTO-1390) with respect to international application PCT/DE03/03741. This submission included, among other materials, payment of \$1,000 as the purported basic national fee. The submission was assigned U.S. application number 10/535,083.

On 16 May 2005, applicants filed a second "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" (Form PTO-1390) with respect to the same international application, PCT/DE03/03741. This submission was also accompanied by a \$1,000 fee payment, as well as the Communication considered herein. This submission was assigned U.S. application number 10/534,994.

The Communication filed with the 16 May 2005 submission, treated as a petition herein, states that the accompanying materials are a duplicate of national stage papers previously filed on 13 May 2005. The petition refers to unspecified concerns that the 13 May 2005 submission might not have been properly delivered to the USPTO by the USPS, stating that this uncertainty lead to the filing of the duplicate materials. Applicant requests that, if the 13 May 2005

submission was properly received by the USPTO, then the duplicate materials be placed in a single file and the duplicate \$1,000 fee payment be refunded to Deposit Account No. 18-2025.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage under 35 U.S.C. 371 have been submitted for international application number PCT/DE03/03741 (U.S. application numbers 10/534,994 and 10/535,083). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

The documents filed on 16 May 2005 and assigned application number 10/534,994 were the first of the two filings to be processed by the USPTO, with such U.S. application file being associated with the international application in the USPTO's PALM system. Accordingly, U.S. application number 10/534,994 is the application file that will continue to be processed as the national stage of PCT/DE03/03741.

The national stage materials filed 13 May 2005 and assigned U.S. application number 10/535,083 have been placed in application file 10/534,994.

The duplicate fees submitted in application number 10/535,083 will be refunded to Deposit Account 18-2025, as requested.

U.S. application number 10/535,083 will be discontinued.

CONCLUSION

Applicants' 16 May 2005 petition is **GRANTED** to the extent discussed above, that is, the papers filed on 13 May 2005 and assigned application number 10/535,083 have been placed in the file of application number 10/534,994, and Deposit Account No. 18-2025 will be refunded the duplicate \$1000 in fees submitted in application number 10/535,083.

Application number 10/535,083 will be discontinued.

Application number 10/534,994 will continue to be processed as the national stage of PCT/DE03/03741. All further correspondence with respect to this national stage application should reference application number 10/534,994.

The present application (10/534,994) is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision, including the mailing of a "Notification Of Missing Requirements" (Form PCT/DO/EO/905)

requiring submission of an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing this declaration later than thirty months after the priority date.

A handwritten signature in black ink, appearing to read 'R M Ross'.

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